



MEMO

To: Board of Directors
From: Company Secretary
Subject: **ANNUAL REPORT CONTENTS**

I note the board's desire for the Company's Annual Report this year to be split into 2 sections – one a marketing document and the other statutory requirements – so I set out below the legal requirements.

Statutory Requirement

The Corporations Act requires annual disclosure of financial information by most companies with Section 314(1) specifying that the 'Annual Financial Report' to shareholders each year must comprise at least all the following:

- financial report – under sec.295: the financial statements, notes thereto and directors' declaration, as per the Accounting Standards (sec.334)
- directors' report – under sec.298, to include information set out in sec.299, 299A, 300, 300A & 307C
- auditor's report – under sec.308.

In addition to sending to shareholders, the Annual Financial Report must be lodged with ASIC within 3 months of financial year-end for stock exchange listed companies and within 4 months for all other applicable companies (eg, unlisted disclosing entities) – sec.319.

Reporting Deadline

Sec.315(1) states that public companies, including listed companies, and large proprietary companies, must "report to" shareholders in terms of s.314(1) – ie, despatch the Annual Financial Report – no later than 21 days prior to the Annual General Meeting or within 4 months of the annual balance date/financial year end at the latest (even if that is more than 21 days before the AGM date).

A small proprietary company only needs to prepare an Annual Report if the company is directed to by shareholders pursuant to the provisions of sec.293 – which requires despatch within 4 months of financial year end or as otherwise allowed under the Act.



Annual General Meeting

Sec.317 requires that the Annual Financial Report must be laid before shareholders at the AGM. There is no requirement for shareholders to vote on the report, but they must be afforded time to ask reasonable questions about the report and the company's financial position.

“Annual Report”

The expression ‘Annual Report’ for many companies simply refers to the s.314(1) information – ie, the statutory minimum under the Act – but it has come to be used to refer to the printed Annual Report document that companies, in particular those listed on the stock exchange, send out to shareholders with information in addition or ancillary to the minimum statutory financial information requirements.

In fact the ASX uses extensively but does not clearly define ‘Annual Report’ either, saying in Listing Rule 19 merely that it includes the Annual Financial Report (sec.314) requirements.

Listed Companies

Regardless of the definition, ASX listed companies have additional requirements – under Listing Rule 4.10 – that the Annual Report must contain, if not included in its statutory Annual Financial Report, the following:

- Corporate Governance Statement
- Substantial shareholder details
- Number of shares and shareholders
- Voting rights attaching to shares
- Shareholder distribution schedule
- Unmarketable parcel details
- Top 20 shareholders
- Company Secretary
- Registered/administrative offices addresses and telephone numbers
- Stock exchanges where listed
- Escrowed shares details
- Mining tenement details – if a mining exploration company
- Details of unlisted shares/holders
- Review of operations and activities
- Details of any current share buy-back
- Explanation of used of funds in an IPO – for first 2 years
- Details of investments – if an investment company
- Details of any current takeover.



Split Report

I can see no reason why the 'Annual Report' cannot be split into 2 sections – say a 'glossy' marketing section with perhaps the statutory part poked into a pocket inside the back cover – provided the statutory and stock exchange requirements are all complied with, at least when lodged with the ASX, mailed to shareholders and accessible on-line.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.

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